

FILED
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US DISTRICT COURT E.D.N.Y.

★ APR 27 2018 ★

BROOKLYN OFFICE

Handwritten: 4/27/18
Verdict Form

Court Exhibit 4A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

-against-

UNITED HEALTH PROGRAMS OF AMERICA,
INC. and COST CONTAINMENT GROUP,
INC.,

Defendants.

-----X

-----X

ELIZABETH ONTANEDA, FRANCINE
PENNISI, and FAITH PABON,

14-CV-3673 (KAM) (JO)

Plaintiffs-Intervenors,

-against-

UNITED HEALTH PROGRAMS OF AMERICA,
INC. and COST CONTAINMENT GROUP,
INC.,

Defendants.

-----X

VERDICT FORM

| | |
|----------------------|-------------------------|
| PENGAD 800-631-6889 | COURT'S |
| | EXHIBIT NO. <u>9</u> |
| | IDENTIFICATION/EVIDENCE |
| | DKT.# <u>14-cv-3673</u> |
| DATE: <u>4/25/18</u> | |

Verdict Form

VERDICT FORM

A. Hostile Work Environment (All Claimants Except Faith Pabon)

Question 1. Do you unanimously find that plaintiffs have proven by a preponderance of the evidence that defendants UHP/CCG are legally responsible for creating or maintaining a hostile work environment based on religion for the following claimants?

| | | |
|--------------------|--------------|------------------|
| Sandra Benedict | <u>✓</u> YES | ___ NO <i>TM</i> |
| Danielle Diaz | <u>✓</u> YES | ___ NO <i>TM</i> |
| Jennifer Honohan | <u>✓</u> YES | ___ NO <i>TM</i> |
| Karen Josey | <u>✓</u> YES | ___ NO <i>TM</i> |
| Regina Maldari | <u>✓</u> YES | ___ NO <i>TM</i> |
| Elizabeth Ontaneda | <u>✓</u> YES | ___ NO <i>TM</i> |
| Cynthia Pegullo | <u>✓</u> YES | ___ NO <i>TM</i> |
| Francine Pennisi | <u>✓</u> YES | ___ NO <i>TM</i> |
| Elizabeth Safara | <u>✓</u> YES | ___ NO <i>TM</i> |

TM

Verdict Form

Answer Question 2 only if the answer for any claimant in Question 1 is YES.

Question 2. How much should each of the claimants be awarded for the hostile work environment they experienced? A claimant may not recover more than once for any damages she may have suffered for the same injury.

| | <u>Compensatory Damages</u> | <u>Punitive Damages</u> |
|-----------------------|---------------------------------|-----------------------------|
| Sandra Benedict | \$ <u>225,000.00</u> | \$ <u>0</u> |
| Danielle Diaz | \$ <u>190,000.00</u> | \$ <u>400,000.00</u> |
| Jennifer Honohan | \$ <u>570,000.00</u> | \$ <u>0</u> |
| Karen Josey | \$ <u>180,000.00</u> | \$ <u>0</u> |
| Regina Maldari | \$ <u>306,000.00</u> | \$ <u>0</u> |
| Elizabeth Ontaneda | \$ <u>590,000.00</u> | \$ <u>900,000.00</u> |
| Cynthia Pegullo | \$ <u>180,000.00</u> | \$ <u>160,000.00</u> |
| Francine Pennisi | \$ <u>248,000.00</u> | \$ <u>381,000.00</u> |
| Elizabeth Safara | \$ <u>80,000.00</u> | \$ <u>0</u> |



Verdict Form

B. Disparate Treatment – Wrongful Termination (All Claimants Except Elizabeth Safara & Regina Maldari)

Question 3. Do you unanimously find that plaintiffs have proven by a preponderance of the evidence that defendants UHP/CCG subjected the following claimants to termination that was motivated, at least in part, by the claimant's rejection of defendants' religious practices?

| | | |
|--------------------|---|--|
| Sandra Benedict | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| Danielle Diaz | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| Jennifer Honohan | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| Karen Josey | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| Elizabeth Ontaneda | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| Faith Pabon | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| Cynthia Pegullo | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| Francine Pennisi | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |



Verdict Form

Answer Question 4 only if the answer for any claimant in Question 3 is YES.

Question 4. If you find by a preponderance of the evidence for any claimant that defendants have proven that defendants would have taken the same adverse action in the absence of a discriminatory motive, the amount of damages is \$0. How much should each of the following claimants be awarded for the disparate treatment they experienced? A claimant may not recover more than once for any damages she may have suffered for the same injury.

| | <u>Compensatory Damages</u> | <u>Punitive Damages</u> |
|-----------------------|---------------------------------|-----------------------------|
| Sandra Benedict | \$ <u>0</u> | \$ <u>0</u> |
| Danielle Diaz | \$ <u>0</u> | \$ <u>0</u> |
| Jennifer Honohan | \$ <u>0</u> | \$ <u>0</u> |
| Karen Josey | \$ <u>0</u> | \$ <u>0</u> |
| Elizabeth Ontaneda | \$ <u>0</u> | \$ <u>0</u> |
| Faith Pabon | \$ <u>440,000.00</u> | \$ <u>250,000.00</u> |
| Cynthia Pegullo | \$ <u>0</u> | \$ <u>0</u> |
| Francine Pennisi | \$ <u>0</u> | \$ <u>0</u> |



Verdict Form**C. Additional Disparate Treatment (Elizabeth Ontaneda)**

Question 5. Do you unanimously find that plaintiffs have proven by a preponderance of the evidence that defendants UHP/CCG subjected Elizabeth Ontaneda to an adverse employment action other than termination that was motivated, at least in part, by Ms. Ontaneda's rejection of defendants' religious practices?

 YES

 ✓ NO

Answer Question 6 only if the answer to Question 5 is YES.

Question 6. If you find by a preponderance of the evidence for any claimant that defendants have proven that defendants would have taken the same adverse action in the absence of a discriminatory motive, the amount of damages is \$0. How much should Elizabeth Ontaneda be awarded for the disparate treatment she experienced? A claimant may not recover more than once for any damages she may have suffered for the same injury.

Compensatory
Damages

Punitive
Damages

Elizabeth
Ontaneda

\$ 0

\$ 0



Verdict Form

D. Additional Disparate Treatment (Francine Pennisi)

Question 7. Do you unanimously find that plaintiffs have proven by a preponderance of the evidence that defendants UHP/CCG subjected Francine Pennisi to an adverse employment action other than termination, that was motivated, at least in part, by Ms. Pennisi's rejection of defendants' religious practices?

___ YES

___ ☒ NO

Answer Question 8 only if the answer to Question 7 is YES.

Question 8. If you find by a preponderance of the evidence for any claimant that defendants have proven that defendants would have taken the same adverse action in the absence of a discriminatory motive, the amount of damages is \$0. How much should Francine Pennisi be awarded for the disparate treatment she experienced? A claimant may not recover more than once for any damages she may have suffered for the same injury.

| | <u>Compensatory</u> <u>Damages</u> | <u>Punitive</u> <u>Damages</u> |
|------------------|---------------------------------------|-----------------------------------|
| Francine Pennisi | \$ <u>0</u> | \$ <u>0</u> |



Verdict Form

Question 9. Do you unanimously find that plaintiffs have proven by a preponderance of the evidence that defendants UHP/CCG subject Francine Pennisi to an adverse employment action other than termination that was motivated, at least in part, by Ms. Pennisi's personal religious beliefs (Catholicism)?

___ YES

___/ NO

Answer Question 10 only if the answer to Question 9 is YES.

Question 10. If you find by a preponderance of the evidence for any claimant that defendants have proven that defendants would have taken the same adverse action in the absence of a discriminatory motive, the amount of damages is \$0. How much should Francine Pennisi be awarded for the disparate treatment she experienced? A claimant may not recover more than once for any damages she may have suffered for the same injury.

| | <u>Compensatory</u> <u>Damages</u> | <u>Punitive</u> <u>Damages</u> |
|------------------|---------------------------------------|-----------------------------------|
| Francine Pennisi | \$ <u>0</u> | \$ <u>0</u> |



Verdict Form

Question 11. Do you unanimously find that plaintiffs have proven by a preponderance of the evidence that defendants UHP/CCG subjected Francine Pennisi to termination, that was motivated, at least in part, by Ms. Pennisi's personal religious beliefs (Catholicism)?

___ YES

___ 0 NO

Answer Question 12 only if the answer to Question 11 is YES.

Question 12. If you find by a preponderance of the evidence for any claimant that defendants have proven that defendants would have taken the same adverse action in the absence of a discriminatory motive, the amount of damages is \$0. How much should Francine Pennisi be awarded for the disparate treatment she experienced? A claimant may not recover more than once for any damages she may have suffered for the same injury.

| | <u>Compensatory</u> <u>Damages</u> | <u>Punitive</u> <u>Damages</u> |
|------------------|---------------------------------------|-----------------------------------|
| Francine Pennisi | \$ <u>0</u> | \$ <u>0</u> |




Verdict Form

E. Retaliation (Francine Pennisi)

Question 13. Do you unanimously find that plaintiffs have proven by a preponderance of the evidence that defendants UHP/CCG retaliated against Francine Pennisi for engaging in a protected activity?

 YES

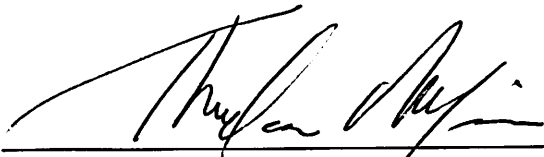
 / NO

Answer Question 14 only if the answer to Question 13 is YES.

Question 14. How much should Francine Pennisi be awarded in connection with the retaliation she experienced? A claimant may not recover more than once for any damages she may have suffered for the same injury.

| | <u>Compensatory</u> <u>Damages</u> | <u>Punitive</u> <u>Damages</u> |
|------------------|---------------------------------------|-----------------------------------|
| Francine Pennisi | \$ <u> 0 </u> | \$ <u> 0 </u> |

Dated: 4 25 2018
(Month) (Date) (Year)



Jury Foreperson